

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

PROFESSIONAL SALES AND MARKETING GROUP, INC.,)	
)	
)	
Plaintiff,)	
)	Case No.: 07-CV-3951
v.)	
)	
RENETTO, LLC)	
and SWIMWAYS, CORP.,)	The Honorable Ruben Castillo
)	
Defendants.)	Magistrate Judge Arlander Keys
)	

RENETTO, LLC,)	
)	
)	
Plaintiff,)	Case No.: 07-CV-6817
)	
v.)	
)	
PROFESSIONAL SALES AND MARKETING GROUP, INC.)	The Honorable Wayne R. Andersen
)	
Defendant.)	
)	

**MOTION TO CONSOLIDATE, OR, ALTERNATIVELY,
TO TRANSFER AS RELATED CASES**

NOW COMES Plaintiff Professional Sales and Marketing Group, Inc. (“PSM Group”), by and through its attorneys, Gregory J. Jordan and the law firm of Polsinelli Shalton Flanigan Suelthaus PC, hereby moves this Court, pursuant to Rule 42 of the Federal Rules of Civil Procedure (the “Federal Rules”), for consolidation of Renetto, LLC v. Professional Sales and Marketing Group, Inc., Case No. 07-CV-06817 into the lower-numbered case Professional Sales and Marketing Group, Inc. v. Renetto, LLC, et al., Case No. 07-CV-3951, or alternatively to transfer Case No. 07-CV-6817 as related to Case No. 07-CV-3951 pursuant to Rule 40.4 of the

Local Rules of the United States District Court for the Northern District of Illinois (the “Local Rules”), and in further support thereof states as follows:

On June 13, 2007, PSM Group filed a Complaint against Renetto, LLC (“Renetto”) and Swimways Corporation (“Swimways”) in the Circuit Court of Cook County. On July 13, 2007 that complaint was subsequently removed to this Court as Professional Sales and Marketing Group, Inc. v. Renetto, LLC, et al., Case No. 07-CV-3951, hereinafter referred to as the “Illinois Action.” On October 2, 2007, PSM Group filed its Amended Complaint. The Illinois Action is currently pending before the Honorable Ruben Castillo. A copy of the Amended Complaint filed in the Illinois Action is attached hereto as **Exhibit A**.

On August 9, 2007, Renetto filed a complaint against PSM Group in the Eastern District of Virginia. On November 27, 2007, the Virginia court reassigned that case to the Northern District of Illinois as Renetto LLC v. Professional Sales and Marketing Group, Inc., Case No. 07-CV-6817, hereinafter referred to as the “Virginia Action.” The Virginia Action is currently pending before the Honorable Wayne Andersen. A copy of the Complaint filed in the Virginia Action is attached hereto as **Exhibit B**.

PSM Group believes the Court should consolidate the Virginia Action into the lower numbered Illinois Action. The Illinois Action and the Virginia Action involve the same parties, the same issues of law, and arise from the same transaction and occurrences. Under Rule 42(a) of the Federal Rules, if actions before the same district court involve a common question of law or fact, the court may consolidate the actions. F. R. Civ. P. R. 42(a)(2).

Both actions arise from the same set of facts, specifically from a contractual business arrangement and joint venture between PSM Group and Renetto. Renetto developed and designed a folding outdoor chair with a canopy to block the sun from the person sitting in the

chair (the “Canopy Chair”). Ex. A at ¶¶ 13-15; Ex. B at ¶¶6-7. Renetto and PSM Group entered into an agreement under which PSM Group provided Renetto the development, production, marketing, and sales expertise required to bring the Canopy Chair to the market. Ex. A at ¶ 17; Ex. B at ¶¶ 11. PSM Group completed the engineering work, continued with the production of the Canopy Chair, and entered into a Sales Agreement with Renetto. Ex. A at ¶¶ 18-21; Ex. B at ¶¶ 11-12. Under the terms of the Sales Agreement, PSM Group had the exclusive right to sell the Canopy Chair through the end of 2006. Ex. A at ¶ 23, 27. The Sales Agreement specified the royalty payments PSM Group would owe Renetto for sales of the Canopy Chair. Ex. A at ¶ 24; Ex. B at ¶12. The Sales Agreement also provided Renetto with the right either to continue the agreement into 2007 or to terminate the arrangement by providing written notice by the end of 2006. Ex. A at ¶¶ 27. Renetto, however, did not provide any notice of termination; rather, Renetto continued to communicate with PSM Group regarding ongoing sales of the Canopy Chair after January 1, 2007. Ex. A at ¶ 30.

PSM Group and Renetto also agreed to form a joint venture to develop, manufacture, and market separate and distinct lines of canopy chairs, including a kid’s canopy chair, a beach canopy chair, an aluminum canopy chair, and a soft top canopy chair (collectively, the “Related Chairs”). Ex. A at ¶¶ 35-41. Under the terms of the joint venture, PSM Group and Renetto would jointly own the intellectual property to the Related Chairs and PSM Group would be the exclusive marketer of the Related Chairs. Id. Renetto subsequently sold its intellectual property rights in the Canopy Chair and the Related Chairs to Swimways. Ex. A at ¶¶ 42-51; Ex. B at ¶¶ 23-27.

The Illinois Action involves a seven-count complaint based on the above facts in which PSM Group seeks an injunction, a declaratory judgment, and monetary relief against Renetto and

Swimways for breach of contract, breach of fiduciary duty, tortious interference with a contract, and tortious interference with a business expectancy. Ex. A.

Likewise, the Virginia Action is a four-count complaint in which Renetto seeks relief for breach of contract, breach of fiduciary duty, tortious interference and misappropriation claims against PSM Group for allegedly failing to pay royalties, by marketing the Canopy Chairs in ways unauthorized by Renetto, and allegedly disclosing confidential information to Swimways Ex. B at ¶¶ 16-21, 28-32, 33-38, 39-50.

Judicial Economy Mandates that This Court Consolidate the Actions

It is in the interest of judicial economy to consolidate the Virginia Action with the Illinois action. Both cases arise from the same transactions and occurrences and involve the same parties. Because the cases arise from the same transaction, the cases will necessarily include the same issues of fact. Even further, both cases involve the same questions of law. Both complaints seek relief for breach of contract and tortious interference. Consolidation of the two cases will be in the interest of judicial economy and will prevent inconsistent rulings by the same court. No party will be prejudiced or disadvantaged if the two cases are consolidated.

Accordingly, PSM Group requests that the case of Renetto, LLC v. Professional Sales and Marketing Group, Inc. Case No. 07-CV-06817 be consolidated, or alternatively transferred as related, into the lower-numbered case Professional Sales and Marketing Group, Inc. v. Renetto LLC, et al., Case No. 07-CV-3951, now pending before the Honorable Ruben Castillo.

Respectfully submitted,

**PROFESSIONAL SALES AND
MARKETING GROUP, INC.**

By: /s/ Gregory J. Jordan
One of Its Attorneys

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing pleading was electronically served on the following parties through the CM/ECF System this 15th day of January 2008, to:

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The undersigned further certifies that a true and correct copy of the above and foregoing pleading was served on the following parties by United States Mail, postage prepaid this 15th day of January 2008, to:

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